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December 2, 2013

RE: Northwest Colorado Greater Sage-Grouse Draft Land Use Plan Amendment and Environmental Impact Statement

To Whom It May Concern:

Public Lands Council (PLC) appreciates the opportunity to comment on the Northwest Colorado Greater Sage-Grouse Draft Land Use Plan Amendment and Environmental Impact Statement (EIS). PLC represents the 22,000 ranchers who hold public lands grazing rights and who have a direct and vested interest in management decisions made in the final EIS. This EIS will directly affect the sustainability of livestock grazing, public lands use, and even private lands use in Colorado. Within the context of sustainability, we are directly concerned about sweeping economic impacts that were not adequately considered by the EIS; fundamental Greater Sage Grouse (GSG) conservation measures that have shown success but were not adequately considered; and finally the sweeping impacts to local communities in northwestern Colorado from a single-issue management approach.

Since 1968, the Public Lands Council has represented livestock ranchers who hold public lands grazing rights, preserving the natural resources and unique heritage of the West. These ranchers steward nearly half of Colorado's lands through a private/public partnership of livestock grazing. PLC works to maintain a stable business environment in which livestock producers may continue to conserve western resources for wildlife, recreation, and food production.

PLC believes there has been significant efforts undertaken in northwest Colorado to conserve GSG and we support the agencies' efforts to craft additional management procedures to conserve and protect the species, with an aim to demonstrate to the U.S. Fish & Wildlife Service (FWS) that a listing under the Endangered Species Act (ESA) is unnecessary. Nonetheless, after reviewing the EIS, PLC and broad group of public and private stakeholders have identified several issues with the document that, if implemented, will have a number of inequitable

socioeconomic consequences in northwest Colorado. Furthermore, we have concluded that the proposed management procedures in the EIS far exceed what is needed to demonstrate to FWS that the regulatory mechanisms needed to conserve GSG and its habitat will exist in the planning area.

We are seriously concerned about many facets of the EIS that will adversely affect our constituencies. The document is fundamentally flawed for the following reasons:

1. The document does not contain an adequate range of alternatives as required under the National Environmental Policy Act (NEPA).
2. The analysis and recommendations in the document rely heavily on the BLM National Technical Team's Report (NTT) Report, which failed to include recent scientific and commercial data and would severely limit the ability of the agencies to meet their multiple-use mandates.
3. The agencies have proposed overly broad and rigid management restrictions in mapped habitat areas.
4. The analysis underestimates the negative socioeconomic impact of the proposed management of GSG in the planning area.
5. The disturbance cap methodology proposed in the EIS is not clearly defined and lacks scientific justification.
6. The document does not adequately explain the proposed mitigation strategy or the context for its use.

Inadequate Range of Alternatives

NEPA and Council on Environmental Quality (CEQ) regulations require agencies to consider a well-defined range of management alternatives and have a clear basis for choosing among the options. While the agencies claim they "will consider a range of reasonable alternatives, including appropriate management prescriptions,"[1] the EIS does not include an alternative that would protect GSG and its habitat while also meeting the traditional multiple-use concepts required under the Multiple-Use Sustained Yield Act of 1960, the Federal Lands Policy and Management Act of 1976 (FLPMA), and the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976. Alternatives carried forward for analysis must be reasonable and meet existing land use objectives and mandates.

Instead, the preferred alternative (Alternative D) largely represents a mixture of the elements of Alternatives B and C, one of which relies on non-site specific recommendations from the NTT report, and another that employs impractical restrictions developed by special-interest environmental groups. As currently proposed, it is unclear how the BLM would implement any of the proposed alternatives and still be able to meet their multiple-use mandate.

During scoping, the agencies received input from local and state governments that have been recognized as cooperating agencies in this process. During these meetings, the cooperating agencies offered substantive input that would provide a fourth alternative usually reserved for

[1] DLUPA/EIS at 25

cooperating agency guidance. Unfortunately, those suggestions were not factored into the formulation of alternatives.

To ameliorate this dilemma, we urge the agencies to draw upon the materials submitted by the cooperating agencies that foster GSG conservation as well as a range of public land uses and incorporate those elements into the preferred alternative in the final EIS. Taking this step will help ensure that the final EIS actually balances economic development with GSG protection in the planning area and that the agencies have considered a broader range of management alternatives as required under NEPA and CEQ regulations.

Of special notation in any alternative is the allowance for retiring permits or grass banking. CCA and PLC is opposed to both at a means of GSG conservation or mitigation. Retiring permits and grass banking, regardless of mandatory or voluntary, removes grazing lands from production and causes economic harm to livestock producers, communities, and governments. Furthermore, CCA and PLC opposes allowing individual permittees from relinquishing grazing rights on allotments for future generations. The permittees right is to graze the allotment for the term in which they are granted, not to determine future generations' ability to utilize their permitted allotment when the existing permittee no long wishes to. Range and livestock management on sagebrush rangelands inhabited by sage grouse should be approached from the standpoint of adaptive management to improve specific habitat components for grouse[2].

Over-reliance on the NTT Report

We question the reliance on many cited sources in the EIS, particularly the NTT Report. Some recommendations from the NTT report are directly included in the preferred alternative, and it appears the report serves as the basis of many of the proposed management restrictions.

The use of the NTT report is problematic as it contains overly burdensome recommendations that are not based on local conditions in northwest Colorado. An independent review of the report shows that it contains many methodological and technical errors, selectively presents scientific information to justify recommended conservation measures, and was disproportionately influenced by a small group of specialist advocates.[3] As such, the NTT report does not adequately represent a comprehensive and complete review of the best scientific and commercial data available and is inappropriate for use as the primary basis of many of the proposed management restrictions.

BLM convened the NTT to develop new or revised regulatory mechanisms for incorporation into Resource Management Plans (RMP) to conserve GSG and its habitat on BLM lands on a long-term, range- wide basis. The NTT Report fails to make use of the latest scientific and biological information available and to acknowledge current scientific research and conservation actions developed by the Colorado Parks and Wildlife Division and local GRS working groups[4]. In addition, the NTT report asserts that impacts from grazing are generally "discrete" but have broad ranging impacts from trampling to decreased cover to broad over grazing. In general, the

[2] Beck and Mitchell, Influences of Livestock Grazing on Sage Grouse Habitat

[3] Rob Roy Ramey, *Review of Data Quality Issues in a Report on National Sage-Grouse Conservation Measures Produced by the BLM National Technical Team (NTT)*, (September 19, 2013).

[4] http://wildlife.state.co.us/WildlifeSpecies/Profiles/Birds/Pages/GreaterSageGrouse.aspx

NTT report does not do an adequate job of documenting current grazing management but rather makes anecdotal observations. Nothing in the NTT Report documents actual population-level declines in GSG. Rather, supposed declines are in realitylocalized effects on lek attendance indicating displacement of the species, not mortality.

Overly Broad Application of Restrictions in Habitat Areas

We question the proposal to impose rigid, uniform management restrictions without consideration of local conditions in habitat areas that were mapped by Colorado Parks and Wildlife Division. The agencies have proposed to prohibit surface occupancy or disturbance within four miles of a lek in Preliminary Priority Habitat (PPH) during nesting, lekking, and early brood-rearing periods. The four-mile buffer around leks does not address the variations in habitat quality or use and given the topography of the planning area there is substantial acreage within four miles of leks that may not actually be GSG habitat. Specific to livestock grazing, we have critical concerns over application of grazing as a disturbance that will be inventoried on private and public lands.

The map of "Ecological Sites Supporting Sagebrush" fails to differentiate between sagebrush habitat quality or use by GSG. As a result, the agencies may be arbitrarily expanding areas subject to the management restrictions outlined in the EIS to areas that do not actually contain active leks or GSG habitat. In addition, there is no scientific evidence that enforcing rigid, uniform restrictions across thousands of acres will actually benefit the species and its habitat, which is counter to the agencies' objectives for this planning process. These factors undercut the agencies' ability to work with users of public lands to identify site-specific plans that allow for development while protecting the GSG and high-quality habitat.

Furthermore, the agencies have not provided a mechanism to ground-truth the habitat areas on a project-specific basis before imposing restrictions, or to monitor its quality or use in the future. Without ground-truthing and future monitoring, the agencies will likely preclude multiple-use activities in areas that do not actually support GSG habitat or active leks, unnecessarily preventing economic activities without commensurate benefit to GSG populations and habitat.

Inadequate Socioeconomic Analysis

Users of public lands in northwest Colorado pump millions of dollars into the national, state and local economies and provide thousands of high-paying jobs within the planning area. The management restrictions and closures in the EIS will undeniably have a direct impact on these users and will have a negative impact on the future viability of coal and hard rock mining, oil and natural gas development, agricultural production, grazing and ranching activities, and power generation in the planning area and beyond. As a result, crucial tax revenue and other economic benefits from these activities will decline.

Unfortunately, the agencies underestimate and consequently underreport this negative impact. The socioeconomic analysis is biased in favor of non-market valuation methods which by the agencies' own admission "are not directly comparable to regional economic indicators commonly used to describe how natural resources on public lands contribute to the regional economic indicators such as output/sales, labor income, and employment."[5] Due to this bias, the

[5] DLUPA/EIS at M-13

agencies have overestimated non-market valuations and underestimated the negative economic impact on local communities and the State of Colorado.

The agencies portray the socioeconomic impacts on the entire planning area but do not delineate the effects that would result from the proposed management restrictions on specific areas, including counties. A more specific portrayal of the projected impacts—which was proposed by many cooperating agencies during the scoping process—would help those impacted to fully understand the varying levels of socioeconomic impacts that will result from the EIS.

According to a paper published by the Policy Analysis Center for Western Public Lands, social impacts arise from the sage-grouse management issues because significant reductions in grazing AUMs on public lands can have identifiable negative economic effects on individual producers and rural communities. The economic impacts section of this study confirms that negative economic effects can result from large reductions in public land grazing. Public land grazers also point out that alternative management actions, such as reducing fire in the sage ecosystem or requiring habitat mitigation for sagebrush fragmentation, do not have the same negative economic consequences for individuals and local communities. The study also determines that decisions made in the absence of good data only increase the likelihood and magnitude of adverse social and economic impacts.[6] CCA and PLC find the EIS severely lacking in an adequate socio-economic analysis that adequately considers implications to public and private lands grazing due to management stipulations conveyed throughout all alternatives. BLM should re-evaluate its methodology for its analysis and implement a strategy the accurately accounts for the direct and indirect implications of the EIS.

Disturbance Cap Methodology

Limiting surface disturbance in the 21 management zones using a cap is a central component of the management of GSG as proposed in the EIS. The methodology proposed for implementing a cap in the EIS is not clearly defined, lacks scientific justification, and no evidence exists that it will result in sustaining or increasing sage grouse populations.

The agencies have not adequately explained several critical details about the functionality and application of the cap concept. For example, the EIS does not clearly explain the scientific data or the sources for that data that is being used to establish the cap; how the disturbance database would be managed and updated and by whom; if or how disturbance percentages will capture reclamation or habitat enhancements; whether and how temporary anthropogenic disturbances will be treated differently than permanent disturbances; and whether and how GSG populations will be actively monitored in each zone and by whom. Because a cap tool, like the one proposed in the EIS, presents myriad challenges that may inhibit consistent and clear implementation, the basis and functionality of the tool must be clearly thought out and presented to entities that will be impacted by its use.

The agencies have not presented information adequately demonstrating that limiting total disturbance to less than 30% in a particular management zone is actually achievable, scientifically defensible, and would result in stable populations in the management zones.

[6] Wambolt, et.al. Conservation of Greater Sage-Grouse on Public Lands in the Western U.S.: Implications of Recovery and Management Policies

Habitat disturbance should be managed according to more localized considerations including habitat quality and habitat distribution, as well the nature and variability of multiple use activities and their associated mitigation.

PLC is similarly concerned that the cap approach affords the agencies the unprecedented discretion to halt projects on public lands in order to compensate for disturbances on private land. While the agencies state they will not inventory private lands or monitor the activities of private landowners, they will track and account for large projects on private lands and apply them against disturbance caps. [7] This approach represents a broad overreach of the agencies' authority and is inappropriate.

The NTT Report was relied upon to substantiate the four-mile buffer around leks. In reviewing available science and applied research, we find this buffer to be arbitrary in nature and far greater than comparable standards. We can only determine, the proposed distance is compelled by non-scientific influence should be reconsidered based on the merits of scientific analysis and adaptive management. Furthermore, the NTT Report is the basis for the disturbance cap methodology. For the same reasons as the buffer zone, we find the use of the NTT Report to substantiate the disturbance cap threshold fatally flawed and requiring reconsideration.

Mitigation Strategy and Context for Use

Throughout the EIS, the agencies reference the notion of utilizing mitigation strategies but have not adequately defined the basis or context of mitigation. While BLM has adopted an interim offsite mitigation policy, the EIS lacks the specificity necessary to implement approaches that would meet the parameters of this policy, much less give adequate direction to BLM Field Offices that onsite and offsite mitigation is a viable option.

Colorado, through a diverse stakeholder process, is in the final stages of developing a mitigation approach called the *Colorado Habitat Exchange* that would meet, if not exceed, BLM's mitigation policy. We request that the agencies develop a more meaningful strategy for mitigation and further define the means by which mitigation might be used in the context of the alternatives in the EIS with special attention paid toward evaluating the *Colorado Habitat Exchange* as a mechanism to meet BLM mitigation needs.

A robust mitigation program should:

- result in measurable, net benefit to the GSG;
- apply a standardized, scientifically-based methodology for assessing and quantifying the habitat conditions and outcomes associated with impacts and offsets across the range of the species;
- utilize a transparent and clearly articulated process for accounting, administering, and tracking mitigation projects and outcomes;
- enable temporary and permanent conservation contracts;
- include verification of impacts, offsets, and performance; and
- apply a monitoring and assessment framework that assures adaptive management of the mitigation program.

[7] DLUPA/EIS at F-3

PLC strongly suggests BLM include the above criterion in a mitigation framework designed to offset unavoidable impacts to GSG habitat. A high quality programmatic mitigation program such as the Colorado Habitat Exchange would meet these criteria. These recommendations are consistent with BLM's interim Regional Mitigation Manual.

PLC also notes that proximity to impacts should not be the only factor in identifying mitigation sites. Rather, priority should be given to sites that present the best locations for long-term GSG conservation within the surrounding landscape, regardless of whether these site are located on private, state or federal land. This is consistent with the BLM Regional Mitigation Manual, as it states "mitigation sites, projects and measures should be focused where the impacts of the use authorization can be best mitigated and BLM can achieve the most benefit to its resource and value objectives". It is also consistent with the habitat selection of the GSG which selects habitat based not only on the characteristics of the site, but the landscape context in which it is situated.

PLC also notes the adoption of a compensatory mitigation framework that ensures transparent and consistent mitigation at the landscape-scale would be consistent with the recent Secretarial Order "Improving Mitigating Policies and Practices of the Department of Interior" (Order No. 3330).

Livestock Grazing (Tables 2.2, 2.3 and 2.4)

PLC finds alternative B and C comprehensively unworkable and ill-conceived with respect to a multiple-use standard. Specifically, livestock grazing on public lands and private lands will cease being sustainable and subsequently drive the sociological and economic basis out of NW Colorado. Furthermore, PLC finds significant faults with alternative D, the preferred alternative.

While PLC will direct comments toward these faults, we strongly request that BLM revisit their methodologies in developing alternatives that can be responsibly considered for GSG while at the same time allow for a sustainable approach to livestock grazing and other federal lands uses. To this end, PLC requests that BLM analyze the differences between Alternative A (no change) and Alternative D (preferred) as a more logical, acceptable and conservation functional alternative for GSG and land use. PLC reminds the BLM that it only represents fifty percent of the GRG habitat in Colorado and can not conserve the species along. Inversely, BLM's incapability of developing a balanced approach to conserve GSG and federal land uses, such as grazing, will assuredly irreverently jeopardize private and state land grouse habitats.

Of special notation and in need of increased consideration is the conveyed messaging throughout BLM and FWS communications that livestock grazing, if done correctly, is not a threat to grouse populations or habitats. Significant justification of these statements is present throughout Colorado Parks and Wildlife Division research and local plans, not to mention the greater body of literature on the subject. Inversely, this element of recognition does not seem to reconcile itself with numerous statements and proposed livestock grazing elements in Alternatives B-D. Rather, livestock grazing is diminished or restricted in range, duration and proximity as a default mechanism of grouse and grouse habitat management. This approach is anecdotal at best and should be rescinded for a structured monitoring and adaptive management approach.

Range Management Objectives –PLC finds that the proposed objectives are focused entirely on the grouse and not the multiple use standards BLM must adhere to according to rule and law. Furthermore, this approach undermines the progress made through implementation of adaptive management strategies that federal land users and managing agencies have implemented over the preceding periods. PLC offers that BLM implement a multiple use objective that requires performance based outcomes for grouse conservation by implementing monitoring and feedback metrics that consider grouse population, behavior and habitat measures. This approach should be implemented, in partnership, with federal land resource users such as livestock grazers.

Range (20, 21, 22) - While PLC agrees that BLM and FS management documents are the appropriate place to list expectations, we still believe that the mechanism must be as outlined in our comments from the Range Management Objectives section.

Integration of land management across land ownership has been a consistent practice for generations. Now, more than ever, grazing permittees are looking at their deeded, state and federal land ownerships as an undivided interest with respect to management in order to maintain a projected and viable business model. This approach manifests itself at all levels including resource opportunities, production yield and economic stability over time. This being stated, if BLM is to implement the outlined approaches as stipulated in the EIS, permittees will likely deviate from this practice as the BLM EIS approach is not sustainable from a resource management or economic sustainability perspective.

BLM appears to be have a competing approach when applying Land Health Assessments. In part of the approach BLM indicates the need to consider GSG with all other uses but then goes on to say that GSG habitat should be given priority. This approach does not comport with the evolution of habitat management currently being employed by the Fish and Wildlife Service or BLM[8].

PLC encourages the BLM to further review the GSG conservation approaches implemented in the Little Snake RMP to further review and determine their conservation value to the GSG. It would appear, in the EIS, that these GSG conservation enhancements have been discounted as non-performing.

Range (23, 24) - PLC finds general support with the statements in Alternative D related to developing specific objective, and vegetation composition; . We find this approach to be in line with an adaptive management methodology.

Range (25) – PLC opposes, at the strongest level, the removal or non-use of livestock to meet residual forage. Additionally, BLM must illustrate why classes of livestock would have differing levels of impact to substantiate this consideration in the EIS. Contemporary research does not indicate that objective orientated livestock grazing has negative impacts on GSG habitats. The responsibility in meeting these objectives lies with the permittee and BLM. Therefore, adequate understanding of ungulates impacts versus livestock must be considered and managed. Furthermore, local BLM personnel must proactively engage in range management rather than administer in a responsive fashion.

[8] Beattie, An Ecosystem Approach to Fish and Wildlife Conservation

Range (27, 28, 29, 30, 31) –PLC supports meeting riparian objectives through management strategies through location of facilities, fences, watering sources, feeding, mineral locations, etc. In general PLC supports management that meets plant species diversity relative to site potential. PLC does not support the approach outlined for water development. It would appear, that BLM would consider any impact to grouse habitat negative and subsequently not approve water developments in the area. This isn't a responsible approach considering overall range health and balanced utilization. Further clarification and consideration in this point is required.

PLC does not support dismantling of water developments. BLM has used a single species management approach that will jeopardize riparian health and lead to harmful utilization by ungulates and livestock.

Range (32, 33) – In reference to sagebrush canopy, PLC requests that BLM further consider available science that calls into question the respective 12% and 15% canopy outlined in Alternative D. Colorado Parks and Wildlife, et.al. performed research in Moffat County that determined a broader range of canopy cover was preferred by the GSG. PLC believes that the approach outlined will lead to sage brush monocultures that do not have desired mosaics and diversity amongst plant species that the GSG relies upon.

PLC strongly opposes vegetation treatment plans that require deferred years of non-grazing. Considerable literature citations[9] illustrate that properly managed grazing does no negatively impact GSG or GSG habitats. The treatment plan approach is ill-founded and represents an attempt to remove grazing from federal lands in the name of "grouse conservation".

Range (36, 37) – PLC acknowledges that permittees will need to cooperate with BLM to evaluate existing range structures for grouse impacts. PLC requests that allowance for mitigation be implemented along with a cooperative approach to modification and relocations.

If fences are to be modified or relocated, BLM should inherit all costs of doing so. Furthermore, BLM must consider other range management implications from these modifications in their evaluation.

Range (39) - PLC is opposed to both at a means of GSG conservation or mitigation. Retiring permits and grass banking, regardless of mandatory or voluntary, removes grazing lands from production and causes economic harm to livestock producers, communities, and governments. Furthermore, PLC opposes allowing individual permittees from relinquishing grazing rights on allotments for future generations. The permittees right is to graze the allotment for the term in which they are granted, not to determine future generations' ability to utilize their permitted allotment when the existing permittee no long wishes to. Range and livestock management on sagebrush rangelands inhabited by sage grouse should be approached from the standpoint of adaptive management to improve specific habitat components for grouse[10].

[9] www.grazingforgrouse.com
[10] Beck and Mitchell, Influences of Livestock Grazing on Sage Grouse Habitat

Wild Horse (40-45) – Wild horses are a manageable element of BLM resource use and should be kept at an objective level that meets with adaptive management of GSG. Special considerations or classifications for wild horses is unacceptable and management should be to that of livestock grazing as outlined in PLC's comments.

Fuels Management (75-84) –PLC supports the use of livestock grazing for fuels management. PLC witnessed in these sections a single species approach toward fuels management rather than and ecological approach. In doing so, ultimate resource conditions are likely to be imbalanced and contribute to other GSG impacts such as wildfire, plant community imbalance, etc.

Fire Operations (85-86) –PLC again witnessed a single species approach toward prioritization of GSG. While not organizations that specialize in fire suppression strategies, PLC is concerned about the legal and ethical elements of this strategy.

ESR (87-88) – There exists, environmental variables that would warrant the use of introduced plant species as a cover crop to protect soil stability and health for defined terms. PLC does not oppose the use of native species, but are concerned about overall land heath in meeting long term objectives. Additionally, there are instances where an adequate supply of native plant species may be unavailable. BLM needs to allow for this level of flexibility.

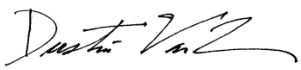
Return to livestock grazing should be based on rangeland health indicators and monitoring. Livestock grazing can be a viable tool in site rehabilitation.

Habitat Restoration (90-97) –PLC supports prioritizing areas where restoration activities take place buy only where the site capability exists. Return to livestock grazing should be based on rangeland health indicators and monitoring. Livestock grazing can be a viable tool in site restoration. Furthermore, PLC reissues our opposition to single species management in lieu of an ecosystem management approach.

Conclusion

We respectfully request that the agencies rectify the issues identified above before preparing the final EIS and issuing a Record of Decision. As written, the EIS does not represent a balanced approach to the future conservation of GSG and economic development in the planning area and its implementation may ultimately preclude the agencies from carrying out their respective multiple-use mandates. It also far exceeds what is needed to demonstrate to FWS that a federal listing of the GSG is unnecessary. PLC appreciate the agencies' consideration of these concerns and is willing to further discuss these comments and recommendations with you in more detail.

Sincerely,



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